

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
SEP 11 2018
CLERK, U.S. DISTRICT COURT
By WLD
Deputy

Plaintiff,

CIVIL ACTION NO.

5:18-CV-167-BQ

ECF

Defendant.

Pro se Plaintiff Richard Dunsmore filed this civil rights action under 42 U.S.C. § 1983 along with an application to proceed *in forma pauperis* (IFP) on July 16, 2018. *See* ECF Nos. 1, 2. The United States District Court subsequently transferred this case to the undersigned United States Magistrate Judge for further proceedings. ECF No. 7. Plaintiff consented to proceed before the undersigned magistrate judge. ECF No. 5. After reviewing the request to proceed IFP, the court found that it needed additional information prior to ruling on the motion and entered an order on July 26, 2018, requiring the production of such material within ten days from the date of the order. *See* ECF No. 8. On August 3, 2018, Plaintiff submitted a second application to proceed IFP. ECF No. 11. Determining that Plaintiff's second application still did not provide all of the required information, the court entered an order explicitly describing what Plaintiff should produce and giving him an additional ten days to provide it. ECF No. 12.

On August 15, 2018, Plaintiff submitted yet another application to proceed IFP, as well as an unsworn declaration supporting the request. ECF Nos. 14, 15. After reviewing the documents Plaintiff had submitted, the court concluded that he still had not complied with the August 6 order: Plaintiff failed to account for the nature of his commissary purchases and explain discrepancies in

his different requests, including monthly disability income of \$372 “not to me.” *See* ECF Nos. 11, 16. Finding that Plaintiff’s refusal to provide the requested information deprived the court of the ability to accurately assess his IFP request, the court denied Plaintiff’s motions for IFP (ECF Nos. 2, 11, 14). ECF No. 16. The court ordered Plaintiff to pay the \$400.00 filing fee within fourteen days of the order and specifically admonished him that failure to timely pay the filing fee would result in dismissal of this action without prejudice. *Id.* As of the date of this order, Plaintiff has failed to pay the filing fee.

It is, therefore,

ORDERED that Plaintiff’s Complaint and all claims alleged therein are **dismissed without prejudice** for want of prosecution in accordance with Federal Rule of Civil Procedure 41(b).

This is a consent case assigned to the undersigned United States Magistrate Judge under 28 U.S.C. § 636(c) with authority to enter judgment. Any appeal shall be to the Court of Appeals for the Fifth Circuit under 28 U.S.C. § 636(c)(3).

On August 27, 2018, the undersigned United States Magistrate Judge made a Report and Recommendation regarding Plaintiff’s request for injunctive relief. ECF No. 17. Because the court is dismissing Plaintiff’s claims, the court hereby **WITHDRAWS** the Report and Recommendation (ECF No. 17), and Plaintiff’s Motion for a Temporary Restraining Order (ECF No. 6) is **DENIED as moot**.

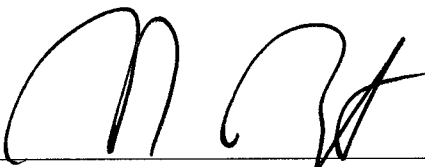
Also before the court is Plaintiff’s Petition to be Afforded a Payment Plan in This Case (ECF No. 19), which he filed after the court denied his request to proceed IFP. The proper avenue for an indigent Plaintiff to avoid prepayment of court fees is a complete and accurate application to proceed *in forma pauperis*, which includes disclosing the Plaintiff’s assets and complying with

the court's orders to provide necessary information. 28 U.S.C. § 1915(a). As discussed above, Plaintiff had several opportunities to produce documentation of his financial condition in accordance with the court's orders, and he failed to comply at each opportunity. *See* ECF Nos. 8, 12, 16. The court sees no reason to reconsider its August 21, 2018, order denying Plaintiff's requests to proceed IFP; accordingly, Plaintiff's Petition (ECF No. 19) is **DENIED**.

Judgment shall be entered accordingly.

SO ORDERED.

Dated: September 11, 2018



D. GORDON BRYANT, JR.
UNITED STATES MAGISTRATE JUDGE